

Appl. No. 09/976,553
Amtd. dated September 15, 2004
Response to Office Action Mailed August 20, 2004

REMARKS

Applicants wish to thank the Examiner for taking the time to discuss the present application on September 8, 2004 via a telephone interview, wherein the teachings of the cited Marocco '857 patent were discussed. The substance of the interview is provided within the discussion below. Claims 1-37 and 39-44 remain in this application.

The pending claims are rejected as obvious in view of the Marocco '857 patent in combination with Stevens. For the reasons discussed below, Applicants traverse this rejection and request that the rejection be withdrawn.

1. Claim Amendments

Each of the independent claims 1, 14, 26, 36, and 39 have been amended to correct the use of the term "Venetian" in capitalized form to now read "venetian".

Independent claims 36 and 39 have also been amended to clarify that the blade assembly that cuts the bottom rail and the blind slats is moved linearly. Dependent claim 38 has been cancelled in that it is essentially redundant of amended claim 36.

Independent claim 1 has also been amended to clarify any ambiguity as to the structure of the claimed apparatus. In particular, the claim has been amended to clarify that the head rail, the bottom rail, and the blind slats of a venetian blind are all cut by the claimed blind cutting apparatus concurrently and non-sequentially. Applicants do not believe that the amendment alters the scope of the claim, but rather clarifies it.

Dependent claim 16 is amended to correct a minor typographical error.

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2. The Marocco '857 Patent Does Not Disclose Non-Sequential Cutting

Each of the pending claims, as amended, sets forth a blind trimming apparatus that cuts the head rail, bottom rail and blind slats of a Venetian blind concurrently and in a non-sequential manner. As such, the respective cutter for each of the three components cuts its component while the other components are also being cut by their respective cutters. For example, at some point during the cutting of the head rail by the rotational die plate, the blades on the linear cutter are also cutting the bottom rail and the blind slats.

Such an arrangement is not disclosed by the cited prior art Marocco '857 patent. Instead, the Marocco '857 patent discloses only separating the cutting operations of the various blind components so as to enable manual cutting. In other words, in its various embodiments, the Marocco '857 patent only discloses cutting some of the blind components at the same time, and cutting other components at a different time, albeit, in some embodiments, all as part of a single movement stroke of a manual lever in a progressive, sequential manner.

Indeed, throughout the Marocco '857 patent it is taught that the cutting of the components of the Venetian are done in such a way that not all three components (head rail, bottom rail, and blind slats) are cut simultaneously and non-sequentially. Rather, in some of the embodiments, at least one of the components is cut in an entirely separate operation, such as by being driven by a separate drive lever. For example, with the first embodiment, Marocco '857 expressly states that “[t]he trimming of the blind slats S is carried out in this embodiment as a separate function from the trimming of the headrail and the bottom rail.” (col. 7, ll. 14-16).

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Therefore, only two components are cut at the same time. Similarly, the embodiment shown in FIG. 13 also illustrates that the cutting of the head rail and bottom rail are done at the same time, but that the cutting of the blind slats is done in a separate operation.

A headrail shear blade 154 is provided on one side of the shear member 148 and a bottom rail shear blade 156 is provided on the other side registering with the respective headrail and bottom rail openings 142 and 144. Between the two shear blades there is a rectangular clearance space 158 in shear member 148, the purposes of which is to fit around either side of the blind slat portion S, extending through the main body 140. It will also be seen that in this embodiment, by the operation of the cam 152 the entire shear member 148 will be driven downwardly. This will cause the two shear blades 154 and 156 to cut the headrail and the bottom rail. After this, the shear member 148 will be raised upwardly, and cutting of the blind slats S can then proceed in the manner already described above. (Col. 9, ll. 19-32)(emphasis supplied).

In some embodiments it is specified that the drive mechanism for cutting of the head rail is controlled with a separate lever from the drive mechanism for cutting the blind slats. For example, the embodiment in FIG. 15 states that "the invention may also be carried out using two separate manual controls for cutting various of the blind components separately by separate manual operations." (Col. 9, ll. 39-42).

A cutting blade 192, for cutting the blind slats, would be operated by means of rods 194 and 196, and wheel 198 and handle 200. In this way, the cutting of the headrail and the bottom rail is achieved by one manual operation, and the cutting of the blind slats is achieved by another manual operation. (Col. 9, l. 63 - col. 10, l. 4) (emphasis supplied).

In the remaining embodiments, not all of the component are being cut at the same time, but instead, at least one component is separated from the cutting of the other components by sequentially cutting the components. For example, in the embodiment of Figure 8, an apparatus is

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shown where a single drive moves the cutters for blind slats and the head rail with a single movement stroke. In this embodiment too, however, not all three components are cut concurrently and non-sequentially. Instead, they are cut in a progression.

As also illustrated in FIGS. 8, and 9 and 10, it is possible to provide for operation of the blind slat cutting blade, in synchronism with the operation of the die plate for cutting the headrail and bottom rail. This may be achieved, by means of connecting the drive shaft 74 driving the blade assembly, by means of a cross bolt 120, to a lost motion linkage 122. Lost motion linkage 122 has a slotted opening 124 to receive bolt 120, thereby allowing the linkage 122 to move a predetermined distance, before it engages bolt 120. ... In this way when the arm 54 is swung toward the operator to rotate hub 52, so as to cut the headrail and bottom rail, a predetermined distance, swinging of the arm 54 a further distance will cause movement of the bolt 120, and connecting rod 74 thereby causing movement of the blade assembly for shearing the ends of the blind slats. (Col. 8, ll. 42-59).

As explained, the lost motion linkage enables only the headrail and bottom rail cutter or the blind slats cutter to be moved at any particular time. Thus, the two cutters are not moving such that all three components are also being cut at the same time and non-sequentially.

Another apparatus that cuts only two components simultaneously at any time during the cutting operation is also disclosed in the embodiment depicted in Figure 18, which is relied upon in the Office Action. In this embodiment, the blade for cutting the bottom rail and the slot for the bottom rail include a substantial gap such that by the time the blade for cutting the bottom rail contacts the bottom rail, the cutting of the head rail is already completed. It is quite clear that this spacing between the bottom rail cutter and the bottom rail is intentional. In fact, there are other examples of this use of gaps or specific spacings to effectuate the separate cutting of components.

For example, with respect to FIGURE 11, it is stated:

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The cutting of the two components [the head rail and bottom rail] could take place in sequence. The bottom rail die recess 40 could be slightly oversize as at 40A in FIG. [11]¹, so that cutting of the bottom rail would take place just after cutting of the headrail, to further reduce manual effort. (Col. 6, ll. 45-49).

The above passage also makes clear that the reason for progressive cutting in Marocco '857, as opposed to the concurrent and non-sequential cutting claimed in the present application, is that separating the cutting operations affords a mechanical advantage. This is also made clear in other places in Marocco '857.

In order to reduce the loading on the manual cutter mechanism, in this embodiment of the invention, there are two manual mechanisms. ... The first lever 316 is then operated to cut the bottom rail and the bundles of blind slats by moving the block 304 horizontally. When that has been completed, then the second lever 326 is operated, so as to move the diagonal block 306 thereby cutting the headrail. (Col. 12, ll. 30-49) (emphasis supplied).

Accordingly, Applicants submit that the Marocco '857 patent does not disclose concurrent and non-sequential cutting of all three Venetian blind components as claimed.

It should also be noted that the Marocco '857 patent was the subject of litigation wherein the district court held, and the Federal Circuit affirmed, that Marocco '857 did not disclose concurrent and non-sequential cutting as claimed in the present application. The case is *Springs Window Fashions LP v. Novo Indus., LP*, 323 F.3d 989 (Fed. Cir. 2003), and the opinion is attached.

¹ Mistakenly referred to in the specification as FIG. 9.

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During the litigation, the district court held that the claims of Marocco '857 were limited such that drive mechanism or mechanisms must be capable of moving independently such that at no time is the cutting of all the components done simultaneously, i.e., at best the Marocco '857 patent only disclosed progressive cutting. *Id.* at 992. The judgment of the district court was affirmed by the Federal Circuit. *Id.* at 1000. The Court also discussed an argument raised by the plaintiff. It was argued that reading the claims to be limited to requiring the capability of cutting the head rail independently of other blind components would read out a preferred embodiment, specifically that shown in Figure 8. The district court and Federal Circuit held that even in this embodiment it was possible to cut the head rail and then stop movement of the drive mechanism such that the blind slats and bottom rail were not cut.

The same is true with Figure 18. As discussed above, with the embodiment of Figure 18, it is possible to cut the head rail and only a portion of the blind slats, but not cut the bottom rail at all. This is done by stopping the movement of the lever of the drive mechanism after the die plate has cut the head rail, but before the bottom rail cutter travels the substantial gap and reaches the bottom rail. Therefore, with Marocco '857 all three components are not cut concurrently and non-sequentially as claimed in the present application.

3. Conclusion

The Marocco '857 patent fails to teach or suggest an apparatus or method for cutting all three components of a Venetian blind as claimed in the present application. At no time does

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Marocco '857 disclose or otherwise suggest cutting all three components of a Venetian blind simultaneously and non-sequentially.

Accordingly, Applicants respectfully submit that the application is in condition for allowance and request same.

Respectfully submitted,

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